



STATE OF WASHINGTON
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To: Interested Parties

From: Marci Hixson, Rules Coordinator
Department of Early Learning

SUBJECT: Revised WAC Chapters 170-151 and 170-295 non-expiring licenses
Concise Explanatory Statement

RCW 34.05.325(6) requires the Department to prepare a “concise explanatory statement” before any rule is filed for permanent adoption. The concise explanatory statement:

- Identifies the Department’s reasons for adopting the rule.
- Describes any differences between the proposed rule and the final rule, other than editing, and the reasons for the differences; and
- Summarizes all comments by category received on the proposal rules during the official comment period, the Department’s response to the comments, and whether any comments resulted in a change to the final rules, or giving the Department’s reasons if the rule was not changed.

The Department sends the concise explanatory statement to everyone who commented on the proposed rules, or to anyone who requests it.

Reasons for Adopting the Rule.

Prior to enactment of Senate Bill 5625 (Chapter 297, Laws of 2011), a “full” child care license was issued for a period of three years. To renew the license, the child care provider submitted a renewal application that in many respects included the same elements and level of detail as an application for a new child care license.

Senate Bill 5625 eliminated the three-year renewal of a child care license and establishes a simplified annual process for licensees to continue a non-expiring license. The proposed rules describe the requirements for a child care provider operating under a DEL initial license to obtain “non-expiring full license” status, and once obtained, the annual requirements for continuing the non-expiring full license. Under the rules, to maintain a non-expiring license the licensee must, by thirty days before the annual anniversary date of the child care license:

- Pay the annual license fee;

- Submit a signed declaration:
 - Indicating the licensee’s intent to continue his or her child care program (or tell DEL the date the licensee plans to cease child care operations), and
 - Stating that the licensee is in compliance with all DEL licensing rules; and
- Verify that each employee and others associated with the child care who are required to have a DEL background check clearance either have such a clearance or have submitted a current a DEL background check application.

Under the bill and the proposed rules, a child care license expires if the licensee does not meet the annual requirements to maintain a nonexpiring full license. If so, the child care agency must close and the provider must submit a new license application and obtain a new license.

The proposal revises other sections of chapters 170-151 and 170-295 WAC consistent with provisions in SB 5625 regarding:

- Payment of annual license fees
- Enforcement actions; and
- Probationary licenses.

Proposal of this rule is consistent with state Office of Financial Management guidance regarding implementation of Executive Order 10-06 suspending non-critical rule making (extended by Executive Order 11-03), but allowing rules to proceed that are:

“Required by federal or state law or required to maintain federally delegated or authorized programs;” or

“Beneficial to or requested or supported by the regulated entities, local governments or small businesses that it affects.”

The proposed rules are needed to implement SB 5625 and remove requirements that are inconsistent with the new law. Small child care business owners and their advocates testified in support enacting SB 5625 during the 2011 legislative session.

Rule Development Process. On May 31, 2011, DEL filed a CR 101 pre-proposal public notice that began the rule development process. In July 2011, DEL circulated a newsletter via e-mail and online informing the public about all of the bills that were passed by the 2011 legislature. No comments were received.

On January 4, 2012, DEL filed the formal proposed rules (CR-102 notice). Formal public hearings were held in the evening on February 7, 2012 in Tumwater, and on Saturday, February 11, 2012 in Spokane. No one from the public attended the February 7 hearing. One person attended the Spokane hearing, and formal testimony was given by Laura Bowman, a licensed child care center director. The comments from the hearing those received in writing are summarized by issue or WAC number in the table below. The table also includes the department responses to each issue raised in the public comments.

Differences between the Proposed Rule and the Final Rule, other than editing. No changes were made to the rules proposed as WSR 12-02-078.

Summary of Comments; Department Response, and effect on the Final Rule. DEL received both written and public hearing comments on the proposed rules. The following table summarized the issues raised in public comments, by rule section and category, and the department's response. The response also indicates if the proposed rule was changed as a result of the comment, or if the proposed rule was not changed and why.

Summary of Comments	Department Response Was the Proposed Rule Changed as a Result? If Not, Explain Why.
The problem that I saw in briefly reading it is it's, if you don't get all the paperwork in in time, there's a chance that you lose your license. What if somebody is late with returning that is there going to be communication from DEL or reminders from DEL to get your paperwork in?	The final rule was not changed as a result of this comment. <u>Rationale:</u> The fee invoice sent to the licensee by DSHS/FSA will have information on the requirements to maintain a non-expiring license. The invoice is sent out 90 days prior to the anniversary date of the license. The timeline for submission of required documents is included in the invoice.